

§ 4.251

§ 4.251 Priority of claims.

(a) Upon motion of the Superintendent or an interested party, the deciding official may authorize payment of the costs of administering the estate as they arise and before the allowance of any claims against the estate.

(b) After the costs of administration, the deciding official may authorize payment of priority claims as follows:

(1) Claims for funeral expenses (including the cemetery marker);

(2) Claims for medical expenses for the last illness;

(3) Claims for nursing home or other care facility expenses;

(4) Claims of an Indian tribe; and

(5) Claims reduced to judgment by a court of competent jurisdiction.

(c) After the priority claims, the deciding official may authorize payment of all remaining claims, referred to as general claims.

(d) The deciding official has the discretion to decide that part or all of an otherwise valid claim is unreasonable, reduce the claim to a reasonable amount, or disallow the claim in its entirety.

(1) If a claim is reduced, the deciding official will order payment only of the reduced amount.

(2) A deciding official may reduce or disallow both priority claims and general claims.

(e) If, as of the date of the initial informal or formal hearing, there is not enough money in the IIM account to pay all claims, the deciding official will order payment of allowed priority claims first, either in the order identified in paragraph (b) of this section or on a pro rata (reduced) basis.

(f) If, as of the date of the initial informal or formal hearing, less than \$1,000 remains in the IIM account after payment of priority claims is ordered, the general claims may be ordered paid on a pro rata basis or disallowed in their entirety.

(g) The unpaid balance of any claims will not be enforceable against the estate after the estate is closed.

(h) Interest or penalties charged against either priority or general claims after the date of death will not be paid.

43 CFR Subtitle A (10–1–08 Edition)

§ 4.252 Property subject to claims.

Claims are payable from income from the lands remaining in trust. Further, except as prohibited by law, all trust moneys of the deceased on hand or accrued at time of death, including bonds, unpaid judgments, and accounts receivable, may be used for the payment of claims, whether the right, title, or interest that is taken by an heir or beneficiary remains in or passes out of trust.

WILLS

SOURCE: 70 FR 11822, Mar. 9, 2005, unless otherwise noted.

§ 4.260 Making of a will; review as to form; revocation.

(a) An Indian 18 years of age or over and of testamentary capacity, who has any right, title, or interest in trust property, may dispose of this property by a will executed in writing and attested by two disinterested adult witnesses.

(b) When an Indian executes a will and submits it to the Superintendent, the Superintendent must forward it to the Office of the Solicitor for examination as to adequacy of form, and for submission by the Office of the Solicitor to the Superintendent of any appropriate comments. The will, codicil, or any replacement or copy thereof, may be retained by the Superintendent at the request of the testator or testatrix for safekeeping. A will must be held in absolute confidence, and no person other than the testator may admit its existence or divulge its contents before the death of the testator.

(c) The testator may, at any time during his or her lifetime, revoke his or her will by a subsequent will or other writing executed with the same formalities as are required in the case of the execution of a will, or by physically destroying the will with the intention of revoking it. No will that is subject to the regulations of this subpart will be deemed to be revoked by operation of the law of any State.

(d) A will, codicil, or revocation may be made self-proved in the manner provided in § 4.233(a)–(b).